UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CAUSE NO. 2:05 CR 11 RL
	)	
AVERELL K. WILLIAMS	)	

PETITION TO ENTER A CHANGE OF PLEA

The defendant above named respectfully represents to the Court as follows:

1. My full true name is Averell Kenyon Williams and I request that all proceedings against me be had in the name which I here declare to be my true name.

2. I was born in the year of 72 in the City of Chicago in the State of ILL. I have attended school and completed 11 years of education and I have the ability to read, write and speak the English language.

3. I am represented by counsel and my lawyer's name is Jerome Flynn.

4. I have received a copy of the Indictment and have read and discussed it with my lawyer, and believe and feel that I understand every accusation made against me in this case.

5. I have told my lawyer the facts and surrounding circumstances as known to me concerning the matters mentioned in the Indictment and believe and feel that my lawyer is fully informed as to all such matters. My lawyer has since informed me and has counseled and advised with me as to the nature and cause of every accusation against me and as to any possible defenses I might have in this case.

6. I understand that I am entitled to have all of my rights which may be involved in this matter explained to me, and that I have the right to have any questions I may have answered for me.

7. I understand that I have a right to plead NOT GUILTY to any offense charged against me, and that under a plea of NOT GUILTY the Constitution guarantees me:

a. the right to a speedy and public trial by a twelve-person jury of my peers, selected according to law, in the Northern District of Indiana which must return a unanimous verdict of GUILTY before I can be convicted;

b. the right to be released on reasonable bail until my trial occurs;

c. the right to see, hear and cross-examine all the witnesses against me at my trial;

d. the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor at my trial;

e. the right to the assistance of counsel at every stage of the proceedings, including upon an appeal if need be;

f. the right not to testify without prejudice; and,

g. in the event that I should be found GUILTY of the charges against me, I would have the right to appeal my convictions on such charges to a higher court.

8. I understand, also, that if I plead GUILTY, I waive the right to trial by jury and all of the other rights mentioned above.

9. Notwithstanding the above, I have, with the assistance of counsel, entered into an agreement with the United States Attorney's Office as follows:

a) I will plead GUILTY to Count One of the Indictment now pending against me charging me with on or about May 14, 2002, knowingly possessing a firearm as a felon, in violation of Title 18 U.S.C. Section 922(g)(1), because I am, in fact, GUILTY;

b) Under Count One of the Indictment, I understand that the statutory maximum penalty that may be imposed upon me for my conviction is a term of imprisonment of ten (10) years, a term of supervised release of three (3) years, and a fine not to exceed $250,000.

c) I further understand that in addition to any other penalty imposed and in accordance with federal law, 18 U.S.C. § 3013, upon entry of judgment of conviction, I will be assessed a special assessment of $100.00 for my plea of

GUILTY. As part of this agreement I understand that I am expected to pay this special assessment in the amount of $100.00 prior to or at the time of sentencing;

d) I understand that under the U.S. Sentencing Guidelines, the Court, in light of an investigation by the United States Probation Office, will determine the applicable sentencing guideline range, and that the Court will determine all matters, whether factual or legal, relevant to the application of the sentencing guidelines including, but not limited to, the adjusted offense level, the relevant circumstances in the case, the criminal history points and category, relevant conduct, the grouping of offenses, victim-related adjustments, role in the offense adjustments, career offender status, criminal livelihood and acceptance of responsibility as well as possible departures from the application of the U.S. Sentencing Guidelines. I understand that the U.S. Sentencing Guidelines are advisory only, and that the specific sentence to be imposed upon me will be determined by the judge after a consideration of a pre-sentence investigation report, input from counsel for myself and the government, federal sentencing statutes, and the U.S. Sentencing Guidelines;

e) In consideration of my plea of guilty to Count One of the Indictment filed in this cause and my complete and continuing demonstration of acceptance of responsibility, the United States of America and I agree that the following NON-BINDING recommendations will be made to the Court:

1) The United States of America and I agree that I have accepted responsibility for the commission of the crime to which I am pleading GUILTY. The United States of America agrees to recommend the maximum applicable for acceptance of responsibility pursuant to guideline section 3E1.1;

2) The United States of America agrees to recommend a sentence at the minimum of the applicable guideline range;

3) The United States of America and I agree that none of the provisions of U.S.S.G. Sections 2K2.1(b) or 2K2.1(c) apply to my case;

4) As a result of my already completed cooperation, the United States of America agrees to file a departure motion of at least two (2) levels with the Court pursuant to Sentencing Guideline section 5K1.1 and Title 18, United States Code, Section 3553(e). I further understand that the nature, value and extent of my cooperation will be determined solely by the government. Furthermore, it is the government who retains the sole discretion as to the number of levels downward beyond the aforementioned two (2) levels requested in the downward departure motion. I understand that the decision to depart from the applicable guideline range rests solely with the Court;

These recommendations are pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) and (B). The Court is not bound by these recommendations and THE DEFENDANT HAS NO RIGHT TO WITHDRAW HIS GUILTY PLEA if the Court decides not to accept the recommendations set forth in paragraph 9(e).

f) I understand that the government's obligation to make any and all of the recommendations contained in paragraph 9(e) above are contingent upon my continuing and complete demonstration of acceptance of responsibility. I understand that if I fail to continue to demonstrate acceptance of responsibility, the government will not be obligated to make any of the above non-binding recommendations contained in paragraph 9(e);

g) I am fully aware that any estimate of my probable sentencing range that I may have received from my attorney, the Government, the probation office, or from any other source, is only an estimate, and not a promise of what sentence I may receive. As such, this estimate is not binding on the Government, the probation department, or my attorney. I fully understand that it is the Court who will determine my exact sentence.

h) I understand that the law gives a convicted person the right to appeal the conviction and the sentence imposed; I also understand that no one can predict the precise sentence that will be imposed, and that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for my offense as set forth in this plea agreement; with this understanding and in consideration of the government's entry into this plea agreement, I expressly waive my right to appeal or to contest my conviction and my sentence or the manner in which my conviction or my sentence was determined or imposed, to any Court on any ground, including any claim of ineffective assistance of counsel unless the claimed ineffective assistance of counsel relates directly to this waiver or its negotiation, including any appeal under Title 18, United States Code, Section 3742 or any post-conviction proceeding, including but not limited to, a proceeding under Title 28, United States Code, Section 2255;

i) I agree to waive all rights, whether asserted directly or through a representative, to request or receive from the United States any further records, reports, or documents pertaining to the investigation or prosecution of this matter. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974. Further, I acknowledge that I have received all discovery required by law prior to the entry of this plea and that I have reviewed the same with my attorney; and

j) Other than what is contained in this plea agreement, no predictions, promises, or representations have been made to me as to the specific sentence that will be imposed or any other matter.

10. I am prepared to state to the Court my reasons based on the facts in this matter that cause me to believe that I am GUILTY as charged.

11. I believe and feel that my lawyer has done all that anyone could do to counsel and assist me, and that I now understand the proceedings in this case against me.

12. I declare that I offer my plea of GUILTY freely and voluntarily and of my own accord, and no promises have been made to me other than those contained in this petition, nor have I been threatened in any way by anyone to cause me to plead GUILTY in accordance with this petition.

13. I understand and acknowledge that this petition, once filed with the Court, is a public document and available for public viewing.

/s/ Averell K. Williams
Averell K. Williams
Defendant

/s/ Jerome T. Flynn
Jerome T. Flynn
Attorney for Defendant

APPROVED:

JOSEPH S. VAN BOKKELEN
UNITED STATES ATTORNEY

By: /s/ Dean R. Lanter
Dean R. Lanter
Assistant United States Attorney